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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,590	08/28/2003	Kazuhiko Arai	16997	7431

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400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

EXAMINER

DESIRE, GREGORY M

ART UNIT	PAPER NUMBER
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2624

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/650,590

Applicant(s)

ARAI ET AL.

Examiner

Gregory M. Desire

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/14/03, 11/25/05</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS filed 12/12/05 & 3/13/06</u> |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-10 are rejected on the ground of nonstatutory obviousness-type double --patenting as being unpatentable over claims 1-22 of U.S. Patent No. 7,138,645.

Although the conflicting claims are not identical, they are not patentably distinct from each other because Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the instant application are broader than the patent claims and therefore are fully discloses.

Regarding claims 1, 4 and 7 Arai discloses,

A calibration pattern in which a predetermined pattern is formed on one of a plurality of three-dimensionally arranged planes and one or more curved surfaces (note claims 1 col. 8 lines 25-31); and

A relative position and posture fixing section which fixes relative position and posture between the calibration pattern and the imaging system (note claim 1 col. 8 lines 35-37, examiner interprets as photographing relative to the pattern).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Beardsley (6,917,702).

Regarding claims 1, 4 and 7 Beardsly discloses,

A calibration pattern in which a predetermined pattern is formed on one of a plurality of three-dimensionally arranged planes and one or more curved surfaces (note fig. 1 block 150 and col. 3 lines 24-258 and col. 4 lines 16-20, examiner interprets as patterns on 3d or curved calibration object);

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A relative position and posture fixing section which fixes relative position and posture between the calibration pattern and the imaging system (note fig. 1 block 140 and col. 3 lines 25-.35, examiner interprets turntable fixes the position of posture between pattern on the object and imaging system (camera).

Regarding claim 2 Beardsly discloses,

One of a plurality of three-dimensionally arranged planes and one or more curved surfaces; and a calibration pattern in which a predetermined pattern is formed on the one of a plurality of three-dimensionally arranged planes or one or more curved surfaces and in a range where a shape is substantially similar to an object imaged by the imaging system (note fig. 1 block 150).

Regarding claim 3 Beardsly discloses,

Wherein a ratio between the objects imaged by the imaging system and the pattern in the range where the shape is substantially similar in width, height and depth is about 1.0 (note fig. 1 block 150).

Regarding claims 5 and 6 Beardsly discloses,

Wherein the unit comprises a plurality of imaging systems which enable imaging of the object from a plurality of view points, and the imaging area instruction section corresponds to only one of the plurality of imaging systems (note fig. 1 c1-c6).

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Regarding claim 8 Beardsly discloses,

A plurality of imaging systems which enable imaging of the object from a plurality of view points, and the imaging posture instruction section corresponds to only one of the plurality of imaging systems (note col. 4 lines 55-30).

Regarding claim 9 Beardsly discloses,

Wherein the unit comprises a plurality of imaging systems which enable imaging of the object from a plurality of view points, and the imaging posture instruction section corresponds to the plurality of imaging systems. (Note col. 6 lines 30-41).

Regarding claim 10 Beardsly discloses,

Wherein the imaging posture instruction section is a bar-shaped instruction member extended in an optical axis direction of the imaging system when the imaging system carries out imaging for calibration (note fig. 1, block 140).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gregory M. Desire
Examiner
Art Unit 2624



G.D.
January 5, 2007